

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

|                                    |   |                                   |
|------------------------------------|---|-----------------------------------|
| <b>XP ENERGY PARTNERS LP, LLP,</b> | § |                                   |
| <i>et al,</i>                      | § |                                   |
|                                    | § |                                   |
| <b>Appellants,</b>                 | § |                                   |
| <b>VS.</b>                         | § | <b>CIVIL ACTION NO. H-10-4286</b> |
|                                    | § |                                   |
| <b>BANK OF OKLAHOMA,</b>           | § |                                   |
| <b>NATIONAL ASSOCIATION,</b>       | § |                                   |
|                                    | § |                                   |
| <b>Defendant.</b>                  |   |                                   |

**MEMORANDUM AND ORDER**

XP Energy Partners LP, LLP, and Leo "Chip" Hanly ("Appellants") appeal from the Order Granting Defendant Bank of Oklahoma, N.A.'s Motion for Summary Judgment (Docket No. 16) in Adversary Proceeding No. 10-03104 (the "Order"). The adversary proceeding brought by Appellants, in the bankruptcy of MSB Energy, Inc., concerned whether Appellants held secured or unsecured claims vis-a-vis Bank of Oklahoma N.A. ("Appellee").

The Bankruptcy Court held that Appellants were judicially estopped to assert secured status by virtue of a settlement order that had been agreed to, in form and substance, by Appellants, Appellees, and others. The settlement order was attached as Exhibit A to the Order.

The Order entered by the Bankruptcy Court is absolutely correct, and needs no further explication.

The Order is **AFFIRMED**, and the appeal is **DISMISSED**.

**IT IS SO ORDERED.**

Signed at Houston, Texas on this 4<sup>th</sup> day of February 2011.

  
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KEITH P. ELLISON  
UNITED STATES DISTRICT COURT